

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,
Plaintiff,

ATTORNEY AFFIRMATION

-vs-

23-CR-99

HOWARD HINKLE, JR.,
Defendant.

We, Frank M. Bogulski, Esq. and Daniel Henry, Esq., attorneys duly admitted in the Western District of New York, affirm the following under penalties of perjury.

1. We represent the Defendant, Howard Hinkle Jr., in the above-captioned matter.
2. On July 26, 2024, Mr Hinkle filed a bail motion (Dkt No. 170) seeking his immediate release with reasonable conditions based on what counsel anticipated to be a potential dismissal of the charges against him. Subsequently, this Court issued a decision regarding the defendants' request for sanctions. In that decision, Judge McCarthy asked the parties to make recommendations to the Court with respect to what types of sanctions would be appropriate to address government misconduct and delays in providing discovery to the parties.
3. Howard Hinkle now moves to withdraw his previous motion of July 26, 2024 and submits this new motion requesting that this Court release him on reasonable conditions as argued below.
4. There is no doubt Howard Hinkle should be released based on the fact that the delays in this case are not attributable to him and that future delays will ensue in this case regardless of the outcome of Judge McCarthy's recommendation about sanctions based on the government's failure to provide timely discovery.
5. Since this case began, parties are no closer to filing pre-trial motions and engaging in substantive motion practice because of the delays regarding discovery, protective orders

and sanctions. Howard Hinkle argues that Judge McCarthy's order of July 29, 2024 constitutes a substantial change in circumstances that would warrant his immediate release from custody. Mr. Hinkle is a lifelong resident of the Western New York area and has been in a relationship with his common law wife for approximately thirty (30) years. Mr. Hinkle and his wife have an adult son together. In addition to his son who lives 10 minutes away, Mr. Hinkle's entire social network of family and friends live near his home in the Wellsville area. For these reasons, Mr. Hinkle does not pose any risk of flight or danger to the community.

FAMILY HOME AS SURETY

6. On August 1, 2024, I had the opportunity to speak with Robert Fogg, attorney for Mr. Hinkle's common law wife, Dillon Anderson. Mr. Fogg indicated that Dillon Anderson is willing to put up the family home to guarantee Mr. Hinkle's presence in court. The home is in the name of Ms. Dillon Anderson and according to her attorney the home is owned outright and there are no liens on the property. The value of the home is approximately \$185,000.00. The fact that the family home will be used to secure Mr. Hinkle's presence re-butts any presumption of flight or danger to the community. The home that will be used is the family residence that Mr. Hinkle has lived with his common law wife and son for over twenty-five (25) years.
7. It is undisputed that there will be significantly more litigation in this case pertaining to discovery issues and potential sanctions. The upcoming litigation will no doubt cause further delays in the progress of the case. Meanwhile, Mr. Hinkle will remain in custody while these issues are litigated by the attorneys and resolved by the Court. In short, Mr. Hinkle should not remain in custody while these matters are litigated. Therefore, we are

requesting that the Court immediately release Mr. Hinkle and set reasonable conditions that include electronic monitoring and a curfew.

WHEREFORE, Defendant, Howard Hinkle Jr. is requesting that this Court release him on reasonable conditions that would include electronic monitoring and a 9pm to 7am curfew.

Dated: Buffalo, NY
August 1, 2024

/s/ FRANK M. BOGULSKI
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